

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

United States of America  
ex rel. Jeffrey J. Bierman,

Plaintiff,

v.

Orthofix International N.V., et al.,

Defendants.

Civil Action No. 05-10557 (EFH)

United States of America  
ex rel. Marcus Laughlin,

Plaintiff,

v.

Orthofix International, N.V., et al.,

Defendants.

(formerly Civil Action No. 1:08-cv-11336  
(JLT))

**MOTION FOR LEAVE TO FILE A REPLY AND TO EXTEND TIME IN WHICH TO  
FILE OPPOSITION TO RELATOR LAUGHLIN'S MOTION FOR LEAVE TO AMEND**

Defendants Orthofix International N.V. and Orthofix, Inc. (collectively, "Defendants") respectfully move this court for leave to file a reply memorandum in support of their Motion To Dismiss Relator Marcus Laughlin's Second Amended Complaint and for an order setting the deadline for filing that reply and Orthofix's Opposition to Relator Laughlin's Motion for Leave To Amend at October 1, 2010. Relator Laughlin does not oppose Defendants' request for leave to file a reply by October 1, 2010. As reasons in support of their motion, Defendants state that:

1. As with each of Relator's previous filings, Relator's Response and Motion for Leave to Amend asserts numerous legal positions that are flatly contrary to established First

Circuit precedent and lack any basis in law. Moreover, Relator essentially concedes—as he did in his Response to Defendants’ previous Motion to Dismiss—several of his theories of liability by failing to challenge or even address Defendants’ arguments. A reply memorandum will allow Defendants to focus the Court on what remains in dispute after Relator Laughlin’s Response, and to clarify why the claims that Relator has chosen to defend nonetheless fail as a matter of law.

2. A reply is also necessary to allow Defendants an opportunity to address exhibits that Relator has attached to a version of his Response to Orthofix’s Motion to Dismiss and Motion for Leave to Amend that was just mailed to the Court, with a copy provided to Orthofix. These exhibits had not previously been served on or provided to Orthofix. Since Relator intends to rely on these exhibits to oppose Defendants’ Motion to Dismiss, Defendants should be allowed an opportunity to address them.

3. Because the issues that Defendants would address in its reply memorandum are pertinent to why leave to amend should not be granted, it would be most efficient—for the Court, for Defendants and for the Relator—for Defendants to address both sets of issues in a single brief. Defendants therefore propose that the deadline for that single reply and opposition to leave to amend be October 1, 2010. Barring entry of an order allowing a reply and this schedule, Defendants’ Opposition to Relator Laughlin’s Motion for leave to Amend is due September 24, 2010.

WHEREFORE Orthofix requests that the Court grant Defendants leave to file a reply memorandum in support of its Motion To Dismiss Relator Marcus Laughlin’s Second Amended Complaint, and allow Defendants until October 1, 2010 to file its combined reply and opposition to Relator Laughlin’s Motion for Leave To Amend.

Dated: September 16, 2010

Respectfully submitted,

DEFENDANT

ROPES & GRAY LLP

By: /s/ Kirsten V. Mayer

Brien T. O'Connor

(BBO #546767)

Kirsten V. Mayer

(BBO #641567)

One International Place

Boston, Massachusetts 02110

(617) 951-7000

Attorneys for Defendant Orthofix  
International N.V. and Orthofix, Inc.

**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rule 7.1, I hereby certify that counsel for the Defendant has conferred with Relator's counsel in a good faith attempt to resolve or narrow the issues presented by this motion.

Dated: September 16, 2010

By: /s/ Kirsten V. Mayer

Kirsten V. Mayer

(BBO #641567)

ROPES & GRAY LLP

One International Place

Boston, Massachusetts 02110

Telephone: (617) 951-7000

Facsimile: (617) 951-7050

Kirsten.Mayer@ropesgray.com

Attorney for Defendants Orthofix  
International, N.V. and Orthofix, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that these documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non registered participants on September 16, 2010.

Dated: September 16, 2010

By: /s/ Kirsten V. Mayer

Kirsten V. Mayer

(BBO #641567)

ROPES & GRAY LLP

One International Place

Boston, Massachusetts 02110

Telephone: (617) 951-7000

Facsimile: (617) 951-7050

Kirsten.Mayer@ropesgray.com

Attorney for Defendants Orthofix

International, N.V. and Orthofix, Inc.